IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

WP(C).No. 4362 of 2007(T)

PETITIONER:

CHALIAR RUBBERS,
CHANDAKUNNU, NILAMBUR P.O.,
MALAPPURAM DISTRICT, REPRESENTED BY ITS
PROPRIETOR SHRI.K.M.BENNY.

BY ADV. SRI.DEEPU THANKAN

RESPONDENTS:
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1. SUB INSPECTOR OF POLICE,
NILAMBUR, MALAPPURAM DISTRICT.

2. SATHYAN, S/O.GOVINDAN NAIR,
PULLANCHERRY HOUSE, NILAMBUR R.S.PO,
MALAPPURAM.

3. SURESH BABU, S/O.AYYAPPAN,
KANAKKARA PALLIYALI HOUSE, NILAMBUR R.S.PO,
MALAPPURAM.

4. RAVI, S/O.KUTTAN CHETTIYAR,
AAMAYUR HOUSE, NILAMBUR R.S.PO, MALAPPURAM.

5. K.VIJAYAN, KOZHAKKATIL HOUSE,
VARAMBAN POTTI, NILAMBUR R.S.PO,MALAPPURAM.

ADDL. 6. ASSISTANT LABOUR OFFICER,NILAMBUR.

(ADDL.R6 IS IMPLEADED VIDE ORDER DATED 21.2.2007 IN I.A.NO. 2475/2007)

R1 BY GP SHRI P.A. SALIM
BY ADV. SRI.DEVIDAS.U.K

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.4362/2007 T - APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 - TRUE COPY OF THE COMPLAINT DATED 30.1.2007.

EXT.P2 - TRUE COPY OF RECEIPT DATED 30.1.2007.

EXT.P3 - TRUE COPY OF JUDGMENT IN W.P. NO.31415/2005 DT.5.12.2005

RESPONDENTS' EXHIBITS : NIL.

(TRUE COPY)

vaa **PS TO JUDGE**

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C)No.4362 OF 2007

Dated 15th March, 2007

JUDGMENT

Koshy,J.

Petitioner is a small scale dealer engaged in the business of rubber products and latex. According to him, he started business in 1996 and last year he opened a godown at Thodiyil Depot near Nilambur Railway Station and he has got his own employees. Names of his employees are mentioned in Ext.P1 complaint (Jamsheer, Thomas, Nani, James and Martin). It is the case of the petitioner that the loading and unloading work is carried on by them as an incidental work and the area in question is not a scheme covered area.

2. Respondents 2 to 5 submitted that they were doing the work for the last 10 years and their work cannot be denied.

3. Government Pleader submitted that it is essentially a labour dispute. However, the godown is started only last year and according to the petitioner he has five permanent employees who can do the loading and unloading work which is arising occasionally and no outsiders are needed. In

the above circumstances, if the loading and unloading work is done only by the above mentioned permanent employees of the petitioner and the area in question is not a scheme covered area, police shall give adequate protection to the petitioner to carry out the loading and unloading work. However, this judgment is without prejudice to the right of the workers in raising labour disputes. The workers have to approach the statutory authority under the Headload Workers' Act instead of taking law into their hands.

The writ petition is disposed of accordingly.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

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